

REMARKS

Claim Rejections

Claims 1-3 are rejected under 35 U.S.C. § 112, second paragraph. Claims 1-3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bussert in view of Kupchunos.

Drawings

It is noted that no Patent Drawing Review (Form PTO-948) was received with the outstanding Office Action. Thus, Applicant must assume that the drawings are acceptable as filed.

New Claims

By this Amendment, Applicant has canceled claims 1-3 and has added new claims 4-8 to this application. It is believed that the new claims specifically set forth each element of Applicant's invention in full compliance with 35 U.S.C. § 112, and define subject matter that is patentably distinguishable over the cited prior art, taken individually or in combination.

The new claims are directed toward a blind structure comprising: an upper beam (21); and a blind body (20) connected at an upper edge thereof to the upper beam and having: a plurality of elongated passages (22) spaced apart on the blind and extending across a width of the blind body, the plurality of elongated passages including a bottom most passage located nearest a bottom edge of the blind and a plurality of upper elongated passages located between the upper beam and the bottom most passage; a buckling piece (24) connected to a center of the bottom most passage; and a plurality of buckling rings (25), one buckling ring of the plurality of buckling rings being connected to a center of each of the plurality of upper elongated passages and aligning with the buckling piece, wherein the blind body is movable between extended and retracted positions, in the retracted position the buckling piece is connected to a predetermined number of the plurality of buckling rings, and in the extended position the buckling piece is disconnected from the plurality of buckling rings.

Other embodiments of the present invention include: a support stick (23) inserted into the bottom most passage; a plurality of support sticks (23), one of the plurality of support sticks is inserted into each of the plurality of elongated passages; the bucking piece is fastening belt having male and female fastening sections; and the bucking piece is a hook.

The primary reference to Bussert teaches a window cover (20) including a clip (70), slots (44), and loops (62).

Bussert does not teach a plurality of elongated passages spaced apart on the blind and extending across a width of the blind body; the plurality of elongated passages including a bottom most passage located nearest a bottom edge of the blind and a plurality of upper elongated passages located between the upper beam and the bottom most passage; a buckling piece connected to a center of the bottom most passage; nor does Bussert teach one buckling ring of the plurality of buckling rings being connected to a center of each of the plurality of upper elongated passages and aligning with the buckling piece.

The secondary reference to Kupchunos teaches a window covering including a covering material (10) having three pockets (22, 24, 26) and rods (12, 14, 16) inserted into the pockets.

Kupchunos does not teach a buckling piece connected to a center of the bottom most passage; nor does Kupchunos teach one buckling ring of the plurality of buckling rings being connected to a center of each of the plurality of upper elongated passages and aligning with the buckling piece.

Even if the teachings of Bussert and Kupchunos were combined, as suggested by the Examiner, the resultant combination does not suggest: a buckling piece connected to a center of the bottom most passage; nor does the combination suggest a plurality of buckling rings, one buckling ring of the plurality of buckling rings being connected to a center of each of the plurality of upper elongated passages and aligning with the buckling piece.

It is a basic principle of U.S. patent law that it is improper to arbitrarily pick and choose prior art patents and combine selected portions of the selected patents on the basis of Applicant's disclosure to create a hypothetical combination which allegedly renders a claim obvious, unless there is some direction in the selected

prior art patents to combine the selected teachings in a manner so as to negate the patentability of the claimed subject matter. This principle was enunciated over 40 years ago by the Court of Customs and Patent Appeals in In re Rothermel and Waddell, 125 USPQ 328 (CCPA 1960) wherein the court stated, at page 331:

The examiner and the board in rejecting the appealed claims did so by what appears to us to be a piecemeal reconstruction of the prior art patents in the light of appellants' disclosure. ... It is easy now to attribute to this prior art the knowledge which was first made available by appellants and then to assume that it would have been obvious to one having the ordinary skill in the art to make these suggested reconstructions. While such a reconstruction of the art may be an alluring way to rationalize a rejection of the claims, it is not the type of rejection which the statute authorizes.

The same conclusion was later reached by the Court of Appeals for the Federal Circuit in Orthopedic Equipment Company Inc. v. United States, 217 USPQ 193 (Fed.Cir. 1983). In that decision, the court stated, at page 199:

As has been previously explained, the available art shows each of the elements of the claims in suit. Armed with this information, would it then be non-obvious to this person of ordinary skill in the art to coordinate these elements in the same manner as the claims in suit? The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of non-obviousness in a court of law.

In In re Geiger, 2 USPQ2d, 1276 (Fed.Cir. 1987) the court stated, at page 1278:

We agree with appellant that the PTO has failed to establish a *prima facie* case of obviousness. Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination.

Applicant submits that there is not the slightest suggestion in either Bussert or Kupchunos that their respective teachings may be combined as suggested by the Examiner. Case law is clear that, absent any such teaching or suggestion in the prior art, such a combination cannot be made under 35 U.S.C. § 103.

Neither Bussert nor Kupchunos disclose, or suggest a modification of their specifically disclosed structures that would lead one having ordinary skill in the art to arrive at Applicant's claimed structure. Applicant hereby respectfully submits that no combination of the cited prior art renders obvious Applicant's new claims.

Summary

In view of the foregoing amendments and remarks, Applicant submits that this application is now in condition for allowance and such action is respectfully requested. Should any points remain in issue, which the Examiner feels could best be resolved by either a personal or a telephone interview, it is urged that Applicant's local attorney be contacted at the exchange listed below.

Respectfully submitted,

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